73-250

AUG 6 1973

MICHAEL RODAK, JR., CLERK

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1973

No. _____

DONALD F. HAYNE,

Petitioner,

v.

THE BOEING COMPANY,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT (Docket No. 72-1261)

JAMES V. JOY, JR.
Attorney for Petitioner
60 East 42nd St.
New York, N.Y. 10017

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT (Docket No. 72-1261)

Petitioner Donald F. Hayne prays that a Writ of Certiorari issue to review the Order of the United States Court of Appeals for the Seventh Circuit, Docket No. 72-1261) on May 8, 1973 (App. C1).

(This is a companion case to *Rolf Topik et al v. Cata-*

lyst Research Corporation, et al, U.S. Supreme Court Docket No. 73-127. Citations in this Petition to an Appendix will be to the Appendix in this Court of the *Topi k* case.).

Opinion Below

At the close of Plaintiff's evidence, at a trial, the United States District Court for the Northern District of Illinois, Eastern Division (*per* William J. Bauer, D.J.) granted Defendant's motion for a directed verdict, after denying a Motion for a Mistrial made by Plaintiff on the ground that denial of discovery in the case had prevented Plaintiff from presenting a *prima facie* case. The Order of the District Court was dated January 25, 1972, is unreported and is printed at App. C . The Order and Opinion dated May 8, 1973 of the United States Court of Appeals for the Seventh Circuit are unreported ported and are printed at App. C1.

Jurisdiction

The Order of the United States Court of Appeals for the Seventh Circuit as aforesaid was made and entered on May 8, 1973. No Petition for Rehearing was filed. The jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1254 (1).

Questions Presented

Page 4 of the Petition of Rolf Topik, Doc. 73-127, is incorporated herein by reference.

Constitutional Provisions and Statutes Involved

The Constitutional provision and Civil Procedure Rules involved are the Fifth Amendment to the United States Constitution and Rules 31, 34, and 56 of the Federal Rules of Civil Procedure, printed in Appendix A, *infra*.

Statement

Pages 9-11 of the Petition of Rolf Topik, Doc. 73-127, are incorporated herein by reference.

Reasons for Granting the Writ

Pages 14-29 of the Petition of Rolf Topik, Doc. No. 73-127, are incorporated herein by reference.

CONCLUSION

For The Foregoing Reasons, The Petition For Certiorari Should Be Granted.

Respectfully submitted,

JAMES V. JOY, JR.
Attorney for Petitioner,
60 East 42nd St.
New York, N.Y. 10017

No. 73-350. See also No. 73-127

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DONALD F. HAYNE,

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THE BOEING COMPANY,

Respondent.

On Petition For Writ Of Certiorari To The Court of Appeals For The Seventh Circuit.

BRIEF IN OPPOSITION

ROBERT L. STERN
ERWIN C. HEININGER
231 South LaSalle Street
Chicago, Illinois 60604

JOHN G. POUST
208 South LaSalle Street
Chicago, Illinois 60604

Attorneys for Respondent
The Boeing Company

Of Counsel:
MAYER, BROWN & PLATT
231 South LaSalle Street
Chicago, Illinois 60604
ST 2-0600

HACKBERT, ROOKS, PITTS,
FULLAGAR & POUST
208 South LaSalle Street
Chicago, Illinois 60604
FR 2-5600

August 23, 1973

SORG/CHICAGO U.S.A.